



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,865	03/10/2005	Robert E. Lo	23095	6670
535	7590	09/26/2009	EXAMINER	
K.F. ROSS P.C.			MCDONOUGH, JAMES E	
5683 RIVERDALE AVENUE				
SUITE 203 BOX 900			ART UNIT	PAPER NUMBER
BRONX, NY 10471-0900			1793	
			MAIL DATE	DELIVERY MODE
			09/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT E. LO and HARRY ADIRIM

Application 10/511,865
Technology Center 1700

Mailed: September 28, 2009

Before *JOYCE GUNTER-RILEY, Review Paralegal.*
GUNTER-RILEY, Review Paralegal.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on September 14, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Appeal Brief filed February 10, 2009 is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Wikipedia.org cited on page 41 in the Appeal Brief.

Appropriate correction is required.

CONCLUSION

Accordingly, it is hereby
ORDERED that the application is returned to the Examiner for further consideration.

1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and

2) for such further consideration

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

/jgr/

K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900